

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA, §
§
Plaintiff, §
§
v. §
§
0.023 ACRES OF LAND, MORE OR §
LESS, SITUATE IN STARR COUNTY, §
STATE OF TEXAS; AND UNKNOWN §
HEIRS OF MARIA C. VELA *et al.*, §
§
Defendants. §

CASE NO. 7:21-CV-015

**PLAINTIFF'S UNOPPOSED MOTION FOR A CONTINUANCE OF THE JOINT
DISCOVERY/CASE MANAGEMENT PLAN AND THE INITIAL PRETRIAL AND
SCHEDULING CONFERENCE PURSUANT TO FED. R. CIV. P. 26(f)**

Plaintiff, United States of America, by and through the undersigned Assistant United States Attorney for the Southern District of Texas, respectfully moves for a continuance of the filing of a Joint Discovery/Case Management Plan and the Initial Pretrial and Scheduling Conference scheduled for April 7, 2021. This is the first continuance sought by either party in this action.

I. BACKGROUND

The United States commenced this case on January 11, 2021 by filing the Declaration of Taking, which sought to acquire fee simple interest in property identified as RGV-WSL-8008.¹

II. RELIEF REQUESTED

The United States requests that the Court continue the filing of the Joint Discovery/Case Management Plan and the Initial Pretrial and Scheduling Conference as it will not prejudice any party of this case. Rather, the United States believes the continuance sought herein will preserve judicial and party resources based on the following reasons:

1. This is a federal land condemnation action seeking to acquire property in order “to

¹ Dkt. No. 2.

construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.”²

2. On January 20, 2021, President Joseph R. Biden executed a Presidential Proclamation, terminating the national emergency at the Southern Border Wall and directing “a careful review of all resources appropriated or redirected to construct a southern border wall” through the development of “a plan for the redirection of funds concerning the southern border wall.”³
3. The development of a plan for the redirection of funds concerning the southern border wall was expected within 60 days from the date of the proclamation.⁴ Although the 60 days have now passed, the United States continues to await guidance from the new administration as to how to proceed.

4. The parties have taken this posture in part due to Maria Vela’s request for the United States to revest title to the estate taken in this case⁵ if determined that the property taken is not needed for purpose taken after completion of the redirection of funds.
5. As of the filing of this motion, construction has neither commenced on the subject property nor on its adjacent tracts.

Based on the foregoing, the United States requests that the Court grant this motion and enter an order continuing the filing of the Joint Discovery/Case Management Plan and the Initial Pretrial and Scheduling Conference for at least 30 days.

² Dkt. No. 2, Schedule B.

³ Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

⁴ *Id.*

⁵ See 40 U.S.C. § 3117 (“In any condemnation proceeding brought by or on behalf of the Federal Government, the Attorney General may stipulate or agree on behalf of the Government to exclude any part of the property, or any interest in the property, taken by or on behalf of the Government by a declaration of taking or otherwise.”).

CERTIFICATE OF CONFERENCE

On March 25, 2021, the undersigned counsel contacted Maria Vela, who advised that she and her husband, Roosevelt Vela, are unopposed to the instant motion. After diligent search and inquiry, the United States has not been able to contact or confirm with the “Unknown Heirs of Maria C. Vela” as to whether they are unopposed to the subject motion,⁶ therefore the instant motion is deemed unopposed.

Respectfully submitted,

JENNIFER B. LOWERY
Acting United States Attorney
Southern District of Texas

By: *s/ Hilda M. Garcia Concepcion*
HILDA M. GARCIA CONCEPCION
Assistant United States Attorney
Southern District of Texas No.3399716
Puerto Rico Bar No. 15494
1701 W. Bus. Highway 83, Suite 600
McAllen, TX 78501
Telephone: (956) 618-8004
Facsimile: (956) 618-8016
E-mail: Hilda.Garcia.Concepcion@usdoj.gov

ALYSSA IGLESIAS
Assistant United States Attorney
Southern District of Texas No.: 3610302
Florida Bar No.: 103383
1701 W. Bus. Highway 83, Suite 600
McAllen, TX 78501
Telephone: (956) 992-9351
Facsimile: (956) 992-9425
E-mail: Alyssa.Iglesias@usdoj.gov

⁶ The Declaration of Taking includes additionally, as an interested party in Schedule G: Unknown Heirs of Maria C. Vela. (See, Dkt. No. 2, Schedule G) The United States is unable to locate Unknown Heirs of Maria C. Vela, who cannot be personally served, because after diligent inquiry within the State of Texas, their places of residence and/or business cannot be ascertained by Plaintiff. Therefore, Plaintiff served Unknown Heirs of Maria C. Vela by publication in accordance with Fed. R. Civ. P. 71.1(d)(3)(B). (Dkt. Nos. 8 and 14). As of the filing of this motion, no one has come forward claiming an interest in the subject property as an unknown heir of Maria C. Vela. Ameida Salinas, Starr County Tax Assessor/Collector, was also listed in the Schedule G as having an interest in the property. Ameida Salinas, Starr County Tax Assessor/Collector, subsequently executed a disclaimer (Dkt. No. 5) and was ultimately dismissed from the case. (Dkt. No. 7).

CERTIFICATE OF SERVICE

I certify that on March 25-30, 2021, a copy of the foregoing document was sent via regular mail to all known parties.

By: *s/ Hilda M. Garcia Concepcion*
HILDA M. GARCIA CONCEPCION
Assistant United States Attorney